



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-010, C-570-011]

Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of Changed Circumstances Reviews, and Revocation of the Antidumping and Countervailing Duty Orders in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is revoking, in part, the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic products from the People's Republic of China (China) (*Solar Products Orders*) with respect to certain off-grid portable small panels.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Thomas Hanna, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0835.

SUPPLEMENTARY INFORMATION

Background

On February 18, 2015, Commerce published AD and CVD orders on certain crystalline silicon photovoltaic products from China.¹ On March 16, 2020, Memory Experts Inc., dba PowerTraveller (Memory Experts), an importer of the subject merchandise, requested, through changed circumstances reviews, revocation of the *Solar Products Orders* with respect to certain off-grid portable small panels, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended

¹ See *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 8592 (February 18, 2015).

(the Act) and 19 CFR 351.216(b).² On April 13, 2020, Hanwha Q CELL USA, Inc. (Q CELL USA) and SunPower Manufacturing Oregon, LLC (SPMOR), U.S. producers of the domestic like product, submitted letters stating that they did not oppose the partial revocation proposed by Memory Experts.³

On June 5, 2020, Commerce initiated these changed circumstances reviews.⁴ Commerce invited interested parties to comment on, and submit factual information regarding, its initiation of changed circumstances reviews pertaining to the partial revocation of the *Solar Products Orders* with respect to certain off-grid portable small panels. Neither domestic party indicated whether it accounts for substantially all of the domestic production of crystalline silicon photovoltaic products; thus, Commerce solicited comments and/or factual information regarding these changed circumstances reviews, including comments on industry support and the proposed partial revocation language.

In light of Memory Experts' Request, Q CELL USA and SPMOR's statement of lack of interest, and the absence of any interested party comments received during the comment period, on August 26, 2020, Commerce preliminarily found that producers accounting for substantially all of the domestic production of the products to which the *Solar Products Orders* pertain lack interest in the relief provided by those orders with respect to certain off-grid portable small panels and announced its intention to revoke, in part, the *Solar Products Orders* with respect to these products.⁵

² See Memory Experts' Letter, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China; Memory Experts Inc., dba PowerTraveller's Request for a Changed Circumstances Review," dated March 16, 2020 (Memory Experts' Request).

³ See Q CELL USA Inc.'s Letter, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China; Hanwha Q CELL USA, Inc.'s Comments on Memory Experts Inc.'s Request for a Changed Circumstances Review," dated April 13, 2020; *see also* SunPower Manufacturing Oregon, LLC's Letter, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; SPMOR Comments on Memory Experts Inc.'s Request for a Changed Circumstances Review," dated April 13, 2020.

⁴ See *Crystalline Silicon Photovoltaic Products from the People's Republic of China: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part*, 85 FR 35902 (June 12, 2020) (*Initiation Notice*).

⁵ See *Crystalline Silicon Photovoltaic Products from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part*, 85 FR 54534 (September 2, 2020) (*Preliminary Results*).

On September 16, 2020, Memory Experts commented on Commerce's preliminary results of these changed circumstances reviews.⁶ Memory Experts agrees with Commerce's preliminary partial rescission of the *Solar Products Orders* with respect to certain off-grid portable small panels, and requests that Commerce apply the revocations retroactively to February 1, 2019, for the AD order and January 1, 2019, for the CVD order. No other interested parties filed comments. Final Results of Changed Circumstances Reviews and Revocation of the *Solar Products Orders*, in Part

In light of Memory Experts' Request, and Q CELL USA and SPMOR's lack of interest in the *Solar Products Orders* covering the products under consideration, Commerce continues to find, pursuant to sections 751(d)(1) and 782(h) of the Act and 19 CFR 351.222(g), that changed circumstances exist that warrant revocation of the *Solar Products Orders*, in part. No interested party opposed this partial revocation. Moreover, no parties provided other information or evidence that calls into question the partial revocation described in Commerce's *Preliminary Results*.

Thus, Commerce is revoking, in part, the *Solar Products Orders* with respect to the following products: Off-grid crystalline silicon photovoltaic panels without a glass cover with the following characteristics:

- 1) Total power output of 500 watts or less per panel;
- 2) Maximum surface area of 8,000 cm² per panel;
- 3) Unit does not include a built-in inverter;
- 4) Unit has visible parallel grid collector metallic wire lines every 2-40 millimeters across each solar panel (depending on model);
- 5) Solar cells are encased in laminated frosted PET material without stitching;⁷
- 6) The panel is encased in polyester fabric with visible stitching which includes a Velcro-type storage pocket and unit closure, or encased within a Neoprene clamshell (depending on model);
- 7) Includes LED indicator.

⁶ See Memory Expert's Letter, "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; Memory Experts Inc., dba PowerTraveller's Comments on Preliminary Results of Changed Circumstances Reviews and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part," dated September 16, 2020 (Memory Experts' Comments).

⁷ Although the polyester material has stitching on the perimeter of the unit, the cells are not stitched into the PET material.

The scope description below includes this new exclusion.

Scope of the *Solar Products Orders*

The merchandise covered by these orders is modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of these orders, subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells produced in a customs territory other than China.

Subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of these orders are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of these orders are modules, laminates and/or panels assembled in China, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000 mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good.

Further, also excluded from the scope of these orders are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from China.⁸

Additionally, excluded from the scope of these orders are solar panels that are: (1) less than 300,000 mm² in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (ABS) box that incorporates a light emitting diode (LED)) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark “SolarPulse.”

Also excluded from the scope of these orders are off-grid crystalline silicon photovoltaic panels without a glass cover with the following characteristics: (1) total power output of 500 watts or less per panel; (2) maximum surface area of 8,000 cm² per panel; (3) unit does not include a built-in inverter; (4) unit has visible parallel grid collector metallic wire lines every 2-40 millimeters across each solar panel (depending on model); (5) solar cells are encased in laminated frosted PET material without stitching;⁹ (6) the panel is encased in polyester fabric with visible stitching which includes a Velcro-type storage pocket and unit closure, or encased within a Neoprene clamshell (depending on model); and (7) includes LED indicator.

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6015, 8541.40.6020, 8541.40.6030,

⁸ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012).

⁹ Although the polyester material has stitching on the perimeter of the unit, the cells are not stitched into the PET material.

8541.40.6035 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these orders is dispositive.¹⁰

Application of the Final Results of These Reviews

Memory Experts requested retroactive application of the final results of these reviews starting January 1, 2019, for purposes of the CVD proceeding, and February 1, 2019, for purposes of the AD proceeding.¹¹ Section 751(d)(3) of the Act provides that “{a} determination under this section to revoke an order ... shall apply with respect to unliquidated entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date determined by the administering authority.” Commerce’s general practice is to instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to antidumping and countervailing duties, and to refund any estimated antidumping and countervailing duties, on all unliquidated entries of the merchandise covered by a revocation that are not covered by the final results of an administrative review or automatic liquidation.¹²

Commerce can exercise its discretion and deviate from this general practice if the particular facts of a case have implications for the effective date of the partial revocation selected by Commerce.¹³ According to Memory Experts, effective dates no later than January 1, 2019, for the CVD proceeding and February 1, 2019, for the AD proceeding are appropriate because:

- 1) the statute and regulations only require that entries be unliquidated to be covered by a

¹⁰ See *Solar Products Orders*.

¹¹ Memory Experts’ Comments.

¹² See, e.g., *Certain Pasta from Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011); *Stainless Steel Bar from the United Kingdom: Notice of Final Results of Changed Circumstances Review and Revocation of Order, in Part*, 72 FR 65706 (November 23, 2007); *Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation of Order In Part: Certain Corrosion-Resistant Carbon Steel Flat Products from Germany*, 71 FR 66163 (November 13, 2006); *Notice of Final Results of Antidumping Duty Changed Circumstances Reviews and Revocation of Orders in Part: Certain Corrosion-Resistant Carbon Steel Flat Products from Canada and Germany*, 71 FR 14498 (March 22, 2006); and *Notice of Final Results of Antidumping Duty Changed Circumstances Review, and Determination to Revoke Order in Part: Certain Cased Pencils from the People’s Republic of China*, 68 FR 62428 (November 4, 2003).

¹³ See section 751(d)(3) of the Act; *Itochu Building Products v. United States*, Court No. 11-00208, Slip Op. 14-37 (CIT April 8, 2014) (*Itochu Bldg. Prod*) at 12 (“The statutory provision, as discussed above, provides Commerce with discretion in the selection of the effective date for a partial revocation following a changed circumstances review, but that discretion may not be exercised arbitrarily so as to decide the question presented without considering the relevant and competing considerations.”)

revocation; there is no requirement that the entries were not made during a period covered by a completed/rescinded administrative review; 2) Memory Experts requested these earlier effective dates; 3) Memory Experts requested these changed circumstances reviews before completion/rescission of the most recent administrative reviews of the *Solar Products Orders*; 4) earlier effective dates are supported by the domestic producers participating in these changed circumstances reviews; and 5) there are no administrability concerns with using earlier effective dates because sales of the products at issue during these earlier periods were not used in calculations in the most recent administrative reviews of the *Solar Products Orders*.

We find, based on the facts in this case, that it is appropriate to apply this partial revocation retroactively to unliquidated entries on or after January 1, 2019, for the CVD order, and February 1, 2019, for the AD order. Commerce did not conduct, and thus did not issue final results of, administrative reviews for the periods beginning on January 1, 2019, for the CVD order and February 1, 2019 for the AD order. Also, Commerce had not yet issued any liquidation instructions for the review periods beginning on January 1, 2019, for the CVD order and February 1, 2019, for the AD order at the time that Memory Experts requested these changed circumstances reviews and the U.S. producers of the domestic like product informed Commerce that they did not oppose the proposed partial revocation. Accordingly, we are retroactively applying the partial revocation to unliquidated entries of merchandise subject to the *Solar Products Orders* that were entered or withdrawn from warehouse, for consumption, on or after January 1, 2019, for the CVD order, and February 1, 2019, for the AD order.

Instructions to CBP

Based on these final results, we intend to instruct CBP to liquidate without regard to countervailing and antidumping duties, and to refund any estimated countervailing and antidumping duties collected on, all unliquidated entries of the merchandise covered by the revocation effective January 1, 2019, for the CVD order and February 1, 2019, for the AD order.

Notification to Interested Parties

This notice serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results in accordance with sections 751(b) and 777(i) of the Act, as amended, and 19 CFR 351.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222

Dated: March 12, 2021.

Christian Marsh,
Acting Assistant Secretary for Enforcement and Compliance.

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